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ATTORNEY GENERAL OF TEXAS

April 11, 2022

Ms. Aliceson Cotton
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2022-10526

Dear Ms. Cotton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 941677 (#G055150).

The City of Frisco (the "city"), which you represent, received a request for information pertaining to the addresses where a backflow prevention device is installed on a specified type of system. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor only seeks addresses where a backflow prevention device is installed on a specified type of system. Thus, only the submitted addresses are responsive to the instant request and the remaining submitted information is not responsive to the request. The city need not release non-responsive information in response to this request, and this ruling will not address that information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that is made confidential by other statutes, such as sections 418.181 and 418.182 of the Government Code, which were added

¹ As we are able to make this determination, we need not address your arguments against disclosure of this information.

to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the “HSA”). Section 418.181 provides “[t]hose documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.” *Id.* § 418.181. Section 418.182 provides, in pertinent part:

(a) [I]nformation . . . in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Id. § 418.182(a). The fact that information may relate to a governmental body’s security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You inform us the responsive information contains technical details of the city’s water system. You assert, and we agree, the city’s water system is critical infrastructure. *See generally id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). You explain the responsive information identifies the exact locations of the backflow prevention devices. You argue the “information identifies particular vulnerabilities[,] as well as strong and weak points in design.” Based on your arguments and our review, we find you have demonstrated release of the responsive information would identify the technical details of particular vulnerabilities of the city’s water system to an act of terrorism. Thus, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.²

Finally, the city asks this office to issue a previous determination that would permit it to withhold the location of blackflow prevention devices under section 552.101 of the Government Code in conjunction with chapter 418 of the Government Code without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

² As our ruling is dispositive, we need not address your remaining argument against disclosure.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/jxd

Ref: ID# 941677

Enc. Submitted documents

c: Requestor
(w/o enclosures)